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TO RUCPDOC/DEPT OF COMMERCE  
RUEHC/SECSTATE WASHDC 3305  
INFO RUEHBO/AMEMBASY BOGOTA 6041  
RUEHLP/AMEMBASSY LA PAZ 1689  
RUEPE/AMEMBASSY LIMA 9894  
RUEHQ/AMEMBASSY QUITO 171  
RUEHAO/AMCONSUL CURACAO 0615  
RUEHGL/AMCONSUL UAYAQUIL 0306  
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UNCLAS SECTION 01 OF 03 CARACAS 000486

SIPDIS

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STATE FR EB/IPE CLACROSSE, DEPT PLS PASS TO USTR  
JCHOE-ROVES, DOC JBOGER, DOC PLS PASS TO USPTO JURBAN AN  
LOC STEPP

E.O. 12958: N/A

TAGS: KIPR VE

SUBJECT: 2006 SPECIAL 301 RECOMMENDATION - KEEP VENEZUELA  
ON PRIORITY WATCH LIST

REF: 05 CARACAS 0596

This message is sensitive but unclassified please treat  
accordingly.

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Summary  
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¶1. (SBU) The BRV continues to exhibit lackluster performance in protection and enforcement of intellectual property rights. In the past year, little has been done to strengthen an already weak enforcement regime. The market for legitimate music CDs is minuscule, and CD, DVD, and software piracy remains high. SAPI, the government agency that oversees IPR enforcement and issues patents has not issued a single patent to an imported drug since 2004, and has attempted to raise registration fees without due process. In addition, the BRV has proposed a new Copyright Law (still under consideration by the National Assembly) that could effectively eviscerate copyright protection. Both the head of SAPI and President Chavez himself have questioned publicly the concept of intellectual property rights. Only SENIAT, the customs and tax agency, has taken positive steps by enacting a regulation allowing ex officio seizures of contraband material and mounting public anti-piracy campaigns. Based on the BRV's antipathy to IP, weak enforcement, and given the possibility of legislation that would further weaken IPR, Post recommends Venezuela stay on the Special 301 Priority Watch List for 2006. End Summary.

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Pharmaceuticals  
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¶2. (SU) The international pharmaceutical industry continues to see a weakening of the intellectual property environment in Venezuela. Despite Venezuela having the highest per-capita medicine consumption in Latin America, and being the third largest market in the region, SAPI the Autonomous Intellectual Property Service (the country's primary IPR authority), has not issued a single patent to an imported pharmaceutical product in the last two years. Applications languish at SAPI and mandatory government sanitary registration of pharmaceutical products results in increased counterfeiting due to BRV refusal to provide confidential

data protection for product submissions which have not yet received patent protection.

¶ 13. (SBU) The BRV does not protect second use patents for products such as the male impotence drug Viagra, which is only patented for its original use as a hypertension medication. Counterfeit medications remain a problem in Venezuela. According to the Chamber of Pharmaceutical Companies CAVEME), these medications make up 10 percent of the market. (Note: According to a private pharmaceutical company contact, Venezuelans consumption has historically had strong brand loyalty, which has favored legitimate providers. End Note). The Ministry of Health ended a public awareness campaign against counterfeit products when relations between CAVEME and the Ministry soured in late 2005.

¶ 14. (SBU) In June 2005, the director of SAPI, Edardo Saman, unilaterally raised patent registration fees by 2,000 percent without National Assembly approval. COVAPI, the bar association for industrial property lawyers, filed suit and won in January 2006, forcing SAPI to return to original fee schedules.

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Recorded Media and Software  
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¶ 15. (SBU) The market for legitimate CDs and DVDs continues to decline, as street vendors operate in a free, unregulated environment. According to SACVEN, the association of recording artists and producers, only 70 legitimate record stores exist in Venezuela. The piracy rate for music CDs has now climbed to a reported 83 percent, according to local IPR contacts (this figure is consistent with International